IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Chamber Summons No. 370 of 2007
in
Suit No.2215 of 1987

M/s Mahindra & Mahindra Ltd. ..Plaintiffs

vs.

Faridkhan Sheikh Kalandar & anr. ..Defendants

and

Fazal Karim Shaikh Farid & ors. ...Respondents

Ms.J.M.Sidhwa for applicants
Mr.Jaydeep Mitra with Mr.M.P.Rege for defendant/respondent no.1

CORAM: S.C.DHARMADHIKARI J.
20th **July, 2007**

P.C.

1. This is a chamber summons taken out by the plaintiffs to bring the heirs and legal representatives of deceased defendant no.1 on record and in the alternative for a decree against the heirs because the original defendants did not file any written statement.

2. I am not inclined to consider the prayer for alternative relief at this stage in as much as I am satisfied from the perusal of the affidavit in support that sufficient cause is made out for condonation of delay in moving this chamber summons. The first defendant expired on 13th February, 2004 and the present chamber

summons is taken out in March, 2007. For the reasons that are set out it cannot be said that the delay is such as would disentitle the plaintiffs from an opportunity to have their claim adjudicated on merits against the first defendant.

3. Applying the principles that are set out in the decision of the Supreme Court in the matter of Nuthailal Dalsangar Singh and others vs. Annabai Devram Kini and others reported in A.I.R.2003 Supreme Court 4244, the Chamber Summons is made absolute in terms of prayer clauses (a) (b) and (d). No order as to costs.

4. Amendment to be carried out within a period of two weeks from today. Upon service of the amended copy of the plaint on the defendants, the defendnats shall file written statement/additional written statement, if any, within a period of two weeks.

5. Suit to appear for directions after four weeks.

(S.C.DHARMADHIKARI J.)